IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3509 of 1996

Between:

Mulkanoor Co-operative Rural Bank, rep. by Secretary Sri M. Laxma Reddy
Mulkanur, Karimnagar District.

...PETITIONER

AND

1. The Appellate Authority under Section 76 of A.P.Co-operative Societies Act and District Munsiff, Huzurabad.

2. Banjala Rajmouli, S/o.Ramaswamy, r/o.Mulkanoor, Karimnagar District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ more particularly one in the nature of Writ of Certiorari calling for records relating to the judgment and decree in C.M.A.No.1 of 1993 on the file of the District Munsif and Appellate Authority under A.P. Cooperative Societies Act, Huzurabad dated 25-8-1995 and quash the same and direct the 2nd respondent to pay a sum of Rs.1,33,926.21 Ps.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR.S.LAKSHMA REDDY

GP for Cooperation

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.3509 of 1996

ORDER:

Heard both sides.

The petitioner which is a Bank filed this Writ Petition, seeking a writ of certiorari, seeking a direction that the judgment and decree dated 25.08.1995 in C.M.A.No.1 of 1993 on the file of first respondent herein as illegal and also a further direction to pay the amount as found against the second respondent by the primary authority.

The case of the petitioner is that in regard to surcharge proceedings levied against the second respondent after a regular enquiry, he has filed an appeal, which was allowed and the matter was remitted to the primary authority for fresh enquiry and disposal, since the enquiry was not properly conducted and sufficient opportunity was not given.

Having heard the learned counsel for the petitioner, it is found that the finding

of the appellate authority was purely based on the fact that there was no proper opportunity given to the second respondent at the time of surcharge proceedings and the matter was remitted for fresh disposal on merits, after providing an opportunity. In view of the same, I do not find any justifiable reason to warrant interference under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed.

-

-

-

(B.PRAKASH RAO, J)

29th November 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Appellate Authority under Section 76 of A.P.Co-operative Societies Act and District Munsiff, Huzurabad.

2. Two CCs to GP for Cooperation, High Court Buildings, Hyderabad (OUT).

3. Two CD copies.